

AARON D. FORD
Attorney General
DOUGLAS R. RANDS, Bar No. 3572
Senior Deputy Attorney General
State of Nevada
100 N. Carson Street
Carson City, NV 89701-4717
Tel: (775) 684-1150
E-mail: drands@ag.nv.gov

CHRISTOPHER M. GUY, Bar No. 15239
Deputy Attorney General
State of Nevada
555 East Washington Ave., Suite 3900
Las Vegas, Nevada 89101
Tel: (702) 486-3326
Email: cguy@ag.nv.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KENNETH G. McDONALD,

Plaintiff,

vs.

JAMES DZURENDA, N.D.O.C.
DIRECTOR, et al.

Defendants.

Case No. 2:19-cv-01329-JAD-CWH

**MOTION TO CONTINUE EARLY
MEDIATION CONFERENCE SET
FOR AUGUST 6, 2021, TO A
SUBSEQUENT DATE AND TIME**

Specially Appearing Defendants, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, Douglas R. Rands, Senior Deputy Attorney General, and Christopher M. Guy, Deputy Attorney General, hereby file this Motion To Continue Early Mediation Conference Set For August 6, 2021, at 8:30 am One Week.

I. BACKGROUND AND INTRODUCTION

This is a civil-rights action under 42 U.S.C. § 1983. Plaintiff Kenneth McDonald filed a Complaint on May 27, 2021. ECF No. 15. This Court issued its Screening Order of the Complaint on May 27, 2021. ECF No. 14. The Office of the Attorney General entered a limited notice of appearance for the purposes of settlement discussions on June 17, 2021.

ECF No. 17. This Court issued an Order setting an Early Mediation Conference. ECF No. 18. The Order scheduled the mediation for August 6, 2021, at 8:30 AM. *Id.* Pursuant to the Order, Defendants were ordered to make the necessary arrangements for Plaintiff to appear by video conferencing. *Id.* at 2:17-20.

Defendants have been informed by Southern Desert Correctional Center that August 6, 2021, at 8:30 AM is not available. Defendants now move for the mediation to be continued to a subsequent date and time.

II. LEGAL STANDARD

District Courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992). In addition to LR IA 6-1, Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

“The proper procedure, when additional time for any purpose is needed, is to present to the Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented before the time then fixed for the purpose in question has expired).” *Canup v. Miss. Valley Barge Line Co.*, 31 F.R.D. 282, 283 (D. Pa. 1962). The *Canup* Court explained that “the practicalities of life” (such as an attorney’s “conflicting professional engagements” or personal commitments such as vacations, family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court deadline. *Pickett v. Valdez*, No. 317CV00567MMDWGC, 2019 WL 2570524, at *1 (D. Nev. June 21, 2019) citing *Canup*, 31 F.R.D. 282, 283 (D. Pa. 1962). Extensions of time “usually are granted upon a showing of good cause, if timely made.” *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D. Ohio 1947). The good cause standard considers a party’s diligence in

seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

III. ARGUMENT

Undersigned counsel has been informed that Southern Desert Correctional Center cannot accommodate the on August 6, 2021, 8:30 AM date and time scheduled by this Court's Order, *see* ECF No. 18, due to a Second Judicial District Court case that is scheduled at that time.

Counsel for Defendants has another mediation scheduled on Friday, August 13, 2021, at 11:15 AM.

IV. CONCLUSION

Specially Appearing Defendants request that the mediation conference be moved to a date and time after August 6, 2021, that works best for the mediator, other than Friday, August 13, 2021, at 11:15 AM.¹

DATED this 16th day of July 2021.

AARON D. FORD
Attorney General

By: /s/Christopher M. Guy
CHRISTOPHER M. GUY, Bar No. 15239
Deputy Attorney General

Attorneys for Defendants

ORDER

The Court finds good cause to GRANT the motion. IT IS HEREBY ORDERED that the Inmate Early Mediation scheduled for August 6, 2021 is **VACATED**. The Court will issue a separate order resetting the mediation.

DATED: July 20, 2021.



Daniel J. Albrechts
United States Magistrate Judge

¹ The mediator will be mailed a copy of this Motion in conjunction with its filing.

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on July 16, 2021, I electronically filed the foregoing **MOTION TO CONTINUE EARLY MEDIATION CONFERENCE SET FOR AUGUST 6, 2021, TO A SUBSEQUENT DATE AND TIME**, via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered service was made by emailing a copy at the addressed to the following:

Kenneth G. McDonald #50925
Southern Desert Correctional Center
P.O. Box 208
Indian Springs, Nevada 89070-0208
Email: sdccclawlibrary@doc.nv.gov
Plaintiff, Pro Se

/s/ Sheri Regalado
Sheri Regalado, An employee of the
Office of the Attorney General